

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Inland Container Corp.)
 Dist. 6, Map 40L, Group C, Control Map 40L,) Carter County
 Parcel 1.01, S.I. 000)
 Industrial Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$435,600	\$1,991,200	\$2,425,800	\$970,720

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 18, 2006 in Elizabethton, Tennessee. In attendance at the hearing were registered agent Adrian Dekker, Carter County Property Assessor Gerald Holly, and Ronnie Taylor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 13 acre site improved with a manufacturing facility constructed in 1952 and 1980 containing 190,489 square feet of gross building area. Subject property is located on Williams Avenue in Elizabethton, Tennessee.

The taxpayer contended that subject property should be valued at \$1,230,000. In support of this position, the cost, sales comparison and income approaches to value were introduced into evidence. Mr. Dekker maintained that the cost, sales comparison and income approaches support value indications of \$1,235,862, \$1,200,000 and \$1,200,000 respectively.

The assessor contended that subject property should be valued at \$1,975,000. In support of this position, Mr. Holly testified that subject property was listed for sale on the relevant assessment date for \$1,975,000. Mr. Holly maintained that the list price constitutes the best evidence of value as of January 1, 2006.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$1,975,000. As will be discussed below, the administrative judge would have normally affirmed the current appraisal of \$2,425,800

based upon the presumption of correctness attaching to the decision of the Carter County Board of Equalization. In this case, however, the administrative judge finds that the assessor's contention of value established the upper limit of market value and should be adopted as the basis of valuation absent additional proof from the taxpayer.

Since the taxpayer is appealing from the determination of the Carter County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's proof initially appears impressive from a quantitative standpoint. However, the administrative judge also finds that upon closer examination it must be concluded the proof lacks probative value.

The administrative judge finds that the narrative portion of Mr. Dekker's cost approach provides in its entirety as follows:

The subject building was built in 1952 and it is nearing the end of its economic life. The column spacing and ceiling heights are not desirable for modern manufacturing and warehousing. As such, the measurement of the depreciation is less than accurate, since much depends on the willingness of the current owner to invest in necessary modernization. The 18-foot ceiling height is the most obsolete factor of the building, which is incurable functional obsolescence. Based on the amount of square footage on the market in Elizabethton, the functionally obsolete nature of the building, *we estimate the depreciation on 1/12006 [sic] to be 98%.*

[Emphasis supplied]

The administrative judge finds that various techniques exist for quantifying accrued depreciation. See generally, Appraisal Institute, *The Appraisal of Real Estate* at 383-414 (12th ed. 2001). The administrative judge finds no such evidence was introduced to substantiate the seemingly extreme estimate of 98% accrued depreciation.

The administrative judge assumes Mr. Dekker recognized this because he then made a "functional value adjustment" of 115% resulting in an adjusted depreciation rate of 85.4%. The administrative judge finds no evidence was introduced concerning the functional value adjustment.

The administrative judge finds Mr. Dekker's cost approach seemingly indicates that for all practical purposes subject improvements have reached the end of their economic life. If so, it would seem reasonable to assume that a prospective buyer would raze the improvements and factor demolition costs into any potential purchase price. This, in turn, suggests that the only value subject property has in exchange is land value. Absent a

highest and best use analysis, the administrative judge finds it most appropriate to assume subject property has *not* reached the end of its economic life.

The administrative judge finds that Mr. Dekker's sales comparison approach cannot provide a reliable basis of valuation. The administrative judge finds that the procedure typically utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001).

The administrative judge finds that Mr. Dekker's sales comparison approach must be rejected for several reasons. Most importantly, the administrative judge finds that the comparables were not adjusted. Moreover, two of the four comparables were actually listings rather than sales. Finally, Mr. Dekker placed greatest weight on the Alcoa sale which was actually an auction. Ironically, that sale was also used by another registered agent the same day in *J. T. Walker Industries* (Carter Co., Tax Year 2006). That agent adjusted the sale price 50% specifically because it was an auction sale.

The administrative judge finds that Mr. Dekker's income approach must also be rejected as the basis of valuation for several reasons. First, the administrative judge finds

that although three rent comparables were introduced, it is unclear why a rental rate of \$1.50 per square foot was assumed when the rent comps ranged from \$2.50 - \$2.63 per square foot. Second, no evidence whatsoever was introduced to substantiate the assumed tax reimbursement, vacancy allowance, management and operating expenses, or reserves for replacement. Third, even if the foregoing problems are ignored, the administrative judge finds that subject property cannot be reliably appraised by the income approach alone.

As previously noted, the administrative judge would have normally affirmed the current appraisal of \$2,425,800 based upon a presumption of correctness. Given the listing of subject property on January 1, 2006 for \$1,975,000, the administrative judge finds the assessor's contention of value appears reasonable and should be adopted as the basis of valuation for tax year 2006.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$435,600	\$1,539,400	\$1,975,000	\$790,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

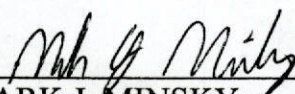
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of November, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Adrian J. Dekker
Gerald Holly, Assessor of Property